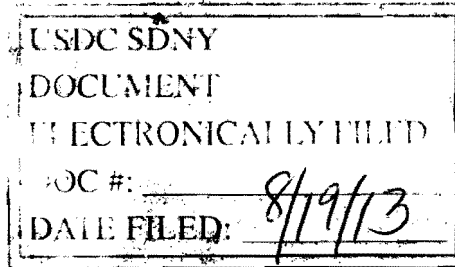


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August 19, 2013

Honorable Victor Marrero
United States District Judge
United States District Court,
Southern District of New York
United States Courthouse
500 Pearl Street
New York, New York 10007-1312

BY FACSIMILE & HAND DELIVERY

Re: ACE Investors, LLC v. Margery Rubin, et al.
Civil Case No.: 13-cv-1373

Honorable Judge Marrero:

We are the attorneys for Margery Rubin, individually and as Trustee of the Rubin Family Irrevocable Stock Trust ("Stock Trust"), the Rubin Family Irrevocable Marital Trust ("Marital Trust"), the Rubin Family Irrevocable Realty Trust ("Realty Trust") and Robert Rubin (collectively referred to as the "Rubins").

We write to inform the Court that a motion was filed on behalf of Margery Rubin, the Stock Trust, the Marital Trust and the Realty Trust, as of right under, and within the time allowed by, Rule 4(a)(4)(A)(vi) of the Federal Rules of Appellate Procedure, for an order, pursuant to Rule 60(b)(3) of the Federal Rules of Civil Procedure, vacating the Order and Judgment made and entered in this action on April 23, 2013 on the ground that said judgment was procured by means of fraud, misrepresentation and other misconduct on the part of plaintiff ACE Investors LLC ("ACE"), its agents and attorneys.

We had previously written to the Court and requested a pre-motion conference in connection with a motion to be brought on behalf of Robert Rubin and the Marital Trust for an indicative ruling, pursuant to FRCP 62.1 and FRAP 12.1, on the same grounds upon which the instant motion is based. This Court, by endorsement made on August 12, 2013, denied our request, indicating that it was not persuaded that it would serve judicial economy to consider the proposed motion prior to a ruling by the Second Circuit on the parties' pending appeal.

Honorable Victor Marrero
August 19, 2013
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Presently, we write to request that the Court treat the motion filed as of right on behalf of Margery Rubin, the Stock Trust, the Marital Trust and the Realty Trust also as a motion for an indicative ruling on behalf of Robert Rubin.

Since the Court must decide the instant motion filed as of right, and the appeal in this matter is held in abeyance pursuant to FRAP Rule 4 until such motion is decided, it would, in fact, serve judicial economy to do treat the instant motion as also seeking an indicative ruling on behalf of Robert Rubin at this time.

In that respect, we respectfully point out to the Court that it is not within the discretion of a court to decide whether or not it would entertain a motion for an indicative ruling under FRCP 62.1, but that its options, as set forth in the applicable rule and commentary thereto, are limited to: (a) denying the motion, in which case the previously-filed notice of appeal would be amended and would bring the decision up for review along with the original appeal; (b) deferring decision thereon; or, (c) indicating that it would grant the motion, or stating that it raises a substantial issue, in which case the circuit court would be so notified so that it may remand the case for further proceedings.

Respectfully yours,

Ahmed A. Massoud

AAM:oi

cc: Shveta Kakar, Esq. (via e-mail)
David Graff, Esq. (via e-mail)
Gary Doctorman, Esq. (via e-mail)

The Clerk of Court is directed to enter into the public record of this action the letter above submitted to the Court by	
<u>defendants</u>	
SO ORDERED.	
<u>8-19-13</u>	<u>[Signature]</u>
DATE	VICTOR MARRERO, U.S.D.J.

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